

§ 1201.50

36 CFR Ch. XII (7–1–08 Edition)

(1) Determines that an error has been made with respect to a debt that has been referred;

(2) Receives or credits a payment on the debt; or

(3) Receives notice that the person owing the debt has filed for bankruptcy under Title 11 of the United States Code and the automatic stay is in effect or has been adjudicated bankrupt and the debt has been discharged.

(f) When advising debtors of NARA's intent to refer a debt to the Treasury for offset, NARA will also advise debtors of remedial actions (*see* §§ 1201.9 and 1201.14 through 1201.16 of this part) available to defer the offset or prevent it from taking place.

Subpart E—Administrative Offset

§ 1201.50 Under what circumstances will NARA collect amounts that I owe to NARA (or some other Federal agency) by offsetting the debt against payments that NARA (or some other Federal agency) owes me?

(a) The regulations in this subpart apply to the collection of any debts you owe to NARA, or to any request from another Federal agency that NARA collect a debt you owe by offsetting your debt against a payment NARA owes you. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3716). NARA will carry out administrative offset in accordance with the provisions of the FCCS. The regulations in this subpart are intended only to supplement the provisions of the Federal Claims Collection Standards.

(b) The Archivist, after attempting to collect a debt you owe to NARA under Section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset only after giving you:

(1) Written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor;

(2) An opportunity to inspect and copy the records of the agency related to the claim;

(3) An opportunity for a review within the agency of the decision of the agency related to the claim; and

(4) An opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(c) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years, unless facts material to NARA or a Federal agency's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(d) The regulations in this subpart do not apply to:

(1) A case in which administrative offset of the type of debt involved is explicitly prohibited by statute; or

(2) Debts owed to NARA by Federal agencies.

§ 1201.51 How will NARA request that my debt to NARA be collected by offset against some payment that another Federal agency owes me?

The Archivist may request that funds due and payable to you by another Federal agency instead be paid to NARA to satisfy a debt you owe to NARA. NARA will refer debts to the Treasury for centralized administrative offset in accordance with the FCCS and the procedures established by the Treasury. Where centralized offset is not available or appropriate, NARA may request offset directly from the Federal agency that is holding funds for you. In requesting administrative offset, NARA will certify in writing to the Federal agency that is holding funds for you:

(a) That you owe the debt;

(b) The amount and basis of the debt; and

(c) That NARA has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, the applicable administrative offset regulations of the agency holding the funds, and the applicable provisions of the FCCS with respect to providing you with due process.